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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,941	07/21/2003	Michael Xie	3000683-7035332001	7695
23639	7590	10/17/2006	EXAMINER	
BINGHAM, MCCUTCHEN LLP THREE EMBARCADERO CENTER 18 FLOOR SAN FRANCISCO, CA 94111-4067			BLUDAU, BRANDON S	
			ART UNIT	PAPER NUMBER
			2132	

DATE MAILED: 10/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/624,941

Applicant(s)

XIE, MICHAEL

Examiner

Brandon S. Bludau

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claim 3 recites the limitation "the special purpose processor" in line 1. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2,6-9,18-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Radatti et al. (US PgPub 2001/0042214).
3. As per claim 1, Radatti discloses a device for managing network traffic flow, the device comprising: a processor, the processor configured to  
receive network traffic content,  
determine whether a protocol of the network traffic content matches a prescribed protocol of network traffic content that could contain content desired to be detected (paragraph [0016] and [0035]), and

store the network traffic content in a stack when the protocol of the network traffic content matches the prescribed protocol (paragraph [0037] wherein it is necessary for the protocol scanner to store the traffic content in a stack while it is being processed/analyzed).

4. As per claim 2, Radatti discloses the device of claim 1, wherein the processor comprises a general purpose processor (see paragraph [0024]).

5. As per claim 6, Radatti discloses the device of claim 1, wherein the processor is further configured to send the network traffic content to a user when the protocol of the network traffic content does not match the prescribed protocol (paragraph [0017]).

6. As per claim 7, Radatti discloses the device of claim 1, further comprising the stack ([paragraph [0035] wherein it is necessary that the processor comprise the stack for storing the code while it is being processed).

7. As per claim 8, Radatti discloses the device of claim 7, wherein the stack is implemented in the processor or in another processor (paragraph [0035] see rejection above).

8. As per claim 9, Radatti discloses the device of claim 8, wherein the stack is configured to store network traffic content in accordance with the protocol of the network traffic content (paragraph [0035] wherein the network traffic is stored and processed as it is received from the communications stream and then returned to the original stream in accordance with the proscribed protocol thus necessitating that it is stored in accordance with the protocol).

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9. As per claim 18, discloses the device of claim 1, wherein the content desired to be detected is selected from the group consisting of a virus, a worm, a web content, a Trojan agent, an email spam, and a packet transmitted by a hacker (paragraph [0004]).
10. Claim 19 is rejected because it discloses similar subject matter as claim 1.
11. Claim 20 is rejected because it discloses similar subject matter as claim 9.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 3-5,10-17,21-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Radatti et al.
13. As per claim 3, Radatti discloses the device of claim 1, but does not disclose wherein the special purpose processor comprises an ASIC processor.

The Examiner notes that is common and well known in the art to use ASIC processors for performing a specific function.

It would be obvious to one of ordinary skill in the art to perform the function of Radatti using an ASIC processor since they are well known and very commonly used. Motivation for one of ordinary skill in the art to use an ASIC processor would be to implement a processor that performs a specific function such as is desired in Radatti as would be well known to one of ordinary skill in the art.

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14. As per claim 4, Radatti discloses the device of claim 3, wherein the ASIC processor is a semi-custom ASIC processor.

The Examiner notes that it is obvious in view of the above rejection to implement the processor wherein it is a semi-custom processor.

15. As per claim 5, Radatti discloses the device of claim 3, wherein the ASIC processor is a programmable ASIC processor (see rejection above).

16. As per claim 10, Radatti discloses the device of claim 1, further comprising a memory;

wherein the processor is further configured to

send at least a portion of the network traffic content to the memory when the protocol of the network traffic content matches the prescribed protocol,

send the network traffic content to a module, the module configured to determine whether the network traffic content contains content desired to be detected

assemble the at least a portion of the network traffic content with the rest of the network traffic content, and transmit the network traffic content to a user when it is determined that the network traffic content does not contain the content desired to be detected((paragraph [0037]).

Radatti does not disclose wherein the processor is configured to send a copy of the network traffic content to a module.

The Examiner notes that it is common practice in the art and thus would be obvious to one of ordinary skill in the art to transmit a copy of the intercepted data to a module.

Motivation for one of ordinary skill in the art to send a copy would be such that the scanner generally conducts transformations on the code to determine if matches with desired code, thus upon completion of the transformations if the code is deemed safe there is no need to reform the code to send back to the stream since the original code is stored in the memory, as is well known and practiced by one of ordinary skill in the art.

17. As per claim 11, Radatti discloses the device of claim 10, further comprising the module (paragraph [0037]).

18. As per claim 12, Radatti discloses the device of claim 11, wherein the module is implemented in the processor (paragraph [0037]).

19. As per claim 13, Radatti discloses the device of claim 11, wherein the module is implemented in an ASIC processor (see the rejection to claim 3).

20. As per claim 14, discloses the device of claim 1, further comprising a memory;  
wherein the processor is further configured to

flag the network traffic content when the protocol of the network traffic content matches the prescribed protocol,

send the flagged network traffic content to the memory,

send a copy of the network traffic content to a module, the module configured to determine whether the network traffic content contain content desired to be detected, and

transmit the network traffic content to a user when it is determined that the network traffic content does not contain the content desired to be detected (paragraph

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[0037] see also the rejection to claim 10, wherein the determination of protocol scanner to transmit the code to the proscribed code scanner is effectively flagging the data).

21. As per claim 15, Radatti discloses the device of claim 14, further comprising the module (see claim 11).

22. As per claim 16, Radatti discloses the device of claim 15, wherein the module is implemented in the processor (see claim 12).

23. As per claim 17, Radatti discloses the device of claim 15, wherein the module is implemented in an ASIC processor (see claim 13).

24. Claim 21 is rejected because it discloses similar subject matter to claim 10.

25. Claim 22 is rejected because it discloses similar subject matter to claim 14.

26. As per claim 23, Radatti discloses a device for managing network traffic flow, the device comprising: a first processor, the first processor configured to

receive network traffic content,

send at least a portion of the network traffic content to a memory, and

send a copy of the network traffic content to a second processor, the second processor configured to determine whether the network traffic content contains Content desired to be detected (paragraph [0035]).

The Examiner notes that Radatti discloses the protocol scanner and the code scanner as two separate and distinct processes, but does not explicitly state that the processes are performed in separate processors. However, it is commonly practiced in the art to implement special purpose processors for performing set functions, thus it



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would be obvious for one of ordinary skill in the art to implement a first and second processor for carrying put the two distinct processes.

Motivation for one of ordinary skill in the art to include a second processor would be to implement a processor with a specialized function to carry out the process, as is commonly performed in the art.

27. As per claim 24, Radatti discloses the device of claim 23, wherein the first processor is further configured to assemble the at least a portion of the network traffic content with the rest of the network traffic content, and cause the network traffic content to be transmitted to a user when it is determined that the network traffic content does not contain the content desired to be detected (paragraph [0033]).

28. Claim 25 is rejected because it discloses similar subject matter as claim 10.

29. Claim 26 is rejected because it discloses similar subject matter as claim 10.

30. As per claim 27, Radatti discloses a device for managing network traffic flow, the device comprising: a first processor, the first processor configured to

receive network traffic content,

flag the network traffic content,

send the flagged network traffic content to a module, the module configured to pass unflagged data to a user and prevent flagged data from being sent to the user, and send a copy of the network traffic content to a second processor, the second processor configured to determine whether the network traffic content contains content desired to be detected (see rejection to claim 14 and 23 wherein the data is effectively flagged as

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it is transmitted to the proscribed code scanner and the unflagged data is passed back to the communications stream).

31. As per claim 28, Radatti discloses the device of claim 27, wherein the first processor is further configured to transmit the network traffic content to a user when it is determined that the network traffic content does not contain the content desired to be detected (paragraph [0033]).

32. As per claim 29, Radatti discloses the device of claim 27, wherein the module comprises a memory, a buffer, or at least a portion of a processor (paragraph [0033]).

33. Claim 30 is rejected because it discloses similar subject matter to claim 27.

34. Claim 31 is rejected because it discloses similar subject matter to claim 28.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brandon S. Bludau whose telephone number is 571-272-3722. The examiner can normally be reached on Monday -Friday 8:00-5:30.

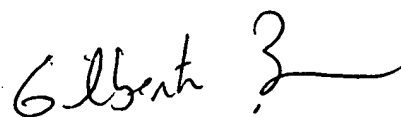
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Brandon S Bludau  
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Art Unit 2132

BB  
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